

## **Involuntary Transfer-Discharge General Information**

A transfer discharge is deemed involuntary if it is an interfacility transfer or discharge and if it instigated by the facility. An interfacility transfer and discharge, as defined by 410 IAC 16.2-3.1-12, of residents of a facility is as follows:

- Interfacility transfer and discharge means the movement of a resident to a bed outside of the licensed facility. For Medicare and Medicaid certified facilities, an Interfacility transfer and discharge means the movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not.

Note: When a transfer or discharge of a resident is proposed provision for continuity of care shall be provided by the facility.

## **Reasons for Interfacility Transfer-Discharge**

Health facilities must permit each resident to remain in the facility and not transfer or discharge the resident from the facility unless:

- A. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility.
- B. The transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility.
- C. The safety of individuals in the facility is endangered.
- D. The health of individuals in the facility would otherwise be endangered.
- E. The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility.
- F. The facility ceases to operate.

## **Emergency Interfacility Transfer-Discharge Requirements**

Notice may be made as soon as practicable before transfer or discharge when:

- The safety of individuals in the facility would be endangered.
- The health of individuals in the facility would be endangered.
- The resident's health improves sufficiently to allow a more immediate transfer or discharge.
- Immediate transfer or discharge is required by the resident's urgent medical needs.
- Resident has not resided in the facility for thirty (30) days.

## **Documentation Necessary for Interfacility Transfer-Discharge**

When the facility proposes to transfer or discharge a resident under any of the circumstances mentioned above, the resident's clinical records must be documented. The documentation must be made by the following:

- The resident's physician when transfer or discharge under subdivision A or B.
- Any physician when transfer or discharge is necessary under subdivision D.

Before an interfacility transfer or discharge occurs, the facility must, on a form prescribed by the department, do the following:

- Notify the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner that the resident understands.

The health facility must place a copy of the notice in the resident's clinical record and transmit a copy to the following:

- The resident.
- A family member of the resident if known.
- The resident's legal representative if known.
- The local long term care ombudsman program (for involuntary relocations or discharges only).
- The person or agency responsible for the resident's placement, maintenance, and care in the facility.
- In situations where the resident is developmentally disabled, the regional office of the division of disability, aging, and rehabilitative services, who may assist with placement decisions.
- The resident's physician when the transfer or discharge is necessary under subdivision C, D, E, or F.
- Record the reasons in the resident's clinical record.

### **Interfacility Transfer-Discharge Notice Requirements**

The notice of transfer or discharge must be made by the facility at least thirty (30) days (unless transfer discharge is deemed an emergency transfer discharge) before the resident is transferred or discharged.

For health facilities, the written notice must include the following:

The reason for transfer or discharge.

- The effective date of transfer or discharge.
- The location to which the resident is transferred or discharged.
- A statement in not smaller than 12-point bold type that reads, "You have the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing with the Indiana state department of health postmarked within ten (10) days after you receive this notice. If you request a hearing, it will be held within twenty-three (23) days after you receive this notice, and you will not be transferred from the facility earlier than thirty-four (34) days after you receive this notice of transfer or discharge unless the facility is authorized to transfer you under subdivision (8). If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Indiana state department of health at the number listed below."
- The name of the director, address, telephone number, and hours of operation of the division.
- A hearing request form prescribed by the department.
- The name, address, and telephone number of the division and local long term care ombudsman.

- For facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.

### **Interfacility Transfer-Discharge Appeal Requirements and Process**

- If the resident appeals the transfer or discharge, the facility may not transfer or discharge the resident within thirty-four (34) days after the resident receives the initial transfer or discharge notice.
- If nonpayment is the basis of a transfer or discharge, the resident shall have the right to pay the balance owed to the facility up to the date of the transfer or discharge and then is entitled to remain in the facility.
- The department shall provide a resident who wishes to appeal the transfer or discharge from a facility the opportunity to file a request for a hearing postmarked within ten (10) days following the resident's receipt of the written notice of the transfer or discharge from the facility.
- If a facility resident requests a hearing, the department shall hold an informal hearing at the facility within twenty-three (23) days from the date the resident receives the notice of transfer or discharge.
- The department shall attempt to give at least five (5) days written notice to all parties prior to the informal hearing.
- The department shall issue a decision within thirty (30) days from the date the resident receives the notice.
- The facility must convince the department by a preponderance of the evidence that the transfer or discharge is authorized.
- If the department determines that the transfer is appropriate, the resident must not be required to leave the facility within the thirty-four (34) days after the resident's receipt of the initial transfer or discharge notice unless an emergency exists.
- Both the resident and the facility have the right to administrative or judicial review under IC 4-21.5 of any decision or action by the department arising under this section. If a hearing is to be held de novo, that hearing shall be held in the facility where the resident resides.

### **Contact Information**

For assistance with the transfer and discharge process please contact:

- Program Director-Provider Services (317) 233-7794

### **Transfer and Discharge Forms**

- Notice of Transfer Discharge (State Form 49669)
- Notice of Transfer Discharge Request for Hearing (State Form 49831)